

CLAUSE I-49 – FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT – PRICE ADJUSTMENT
(MULTIPLE YEAR AND OPTION CONTRACTS) (August 2002)

- (a) This clause applies to both subcontracts subject to area prevailing wage determinations and subcontracts subject to collective bargaining agreements.
- (b) The Subcontractor warrants that the prices in this subcontract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.
- (c) The wage determination, issued under the Service Contract Act of 1965, as amended, (41 U.S.C. 351, et seq.), by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, current on the anniversary date of a multiple year subcontract or the beginning of each renewal option period, shall apply to this subcontract. If no such determination has been made applicable to this subcontract, then the Federal minimum wage as established by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C 206) current on the anniversary date of a multiple year subcontract or the beginning of each renewal option period, shall apply to this subcontract.
- (d) The subcontract price or subcontract unit price labor rates will be adjusted to reflect the Subcontractor's actual increase or decrease in applicable wages and fringe benefits to the extent that the increase is made to comply with or the decrease is voluntarily made by the Subcontractor as a result of –
 - (1) The Department of Labor wage determination applicable on the anniversary date of the multiple year subcontract, or at the beginning of the renewal option period. For example, the prior year wage determination required a minimum wage rate of \$4.00 per hour. The Subcontractor chose to pay \$4.10. The new wage determination increases the minimum rate to \$4.50 per hour. Even if the Subcontractor voluntarily increases the rate to \$4.75 per hour, the allowable price adjustment is \$.40 per hour;
 - (2) An increased or decreased wage determination otherwise applied to the subcontract by operation of law; or
 - (3) An amendment to the Fair Labor Standards Act of 1938 that is enacted after award of this subcontract, affects the minimum wage, and becomes applicable to this subcontract under law.
- (e) Any adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph (c) of this clause, and the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance, but shall not otherwise include any amount for general and administrative costs, overhead, or profit.
- (f) The Subcontractor shall notify the Subcontracting Officer of any increase claimed under this clause within 30 days after receiving a new wage determination unless this notification period is extended in writing by the Subcontracting Officer. The Subcontractor shall promptly notify the Subcontracting Officer of any decrease under this clause, but nothing in the clause shall preclude SURA from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and any relevant supporting data, including payroll records, which the Subcontracting Officer may reasonably require. Upon agreement of the parties, the subcontract price or subcontract unit price labor rates shall be modified in writing. The Subcontractor shall continue performance pending agreement on or determination of any such adjustment and its effective date.
- (g) The Subcontracting Officer or an authorized representative shall have access to and the right to examine any directly pertinent books, documents, papers and records of the Subcontractor until the expiration of 3 years after final payment under the subcontract.